

23 March 1988  
OCA 88-0896

MEMORANDUM FOR THE RECORD

SUBJECT: Hearing on CIA Statutory Inspector General, S. 1818

1. On 1 March 1988, there was an open hearing before the Senate Select Committee on Intelligence with respect to the establishment of a statutory inspector general at the Agency. Appearing were Charles Bowsher, Comptroller General; Sherman Funk, Department of State Inspector General; June Brown, Department of Defense Inspector General; and the Director of Central Intelligence. The statements of State, Bowsher and DoD are attached. Members present were Senators Boren and Specter, although Senator Warner made a brief appearance.

2. In response to questioning by Senator Boren, the following points were made. The DoD IG has full access to anything, including highly compartmented information. The State IG operates on a basis of strict need-to-know. DoD has full access to Agency information when involved in cooperative activities. State limits dissemination of IG reports regarding covert activities conducted according to findings to the intelligence committees; DoD does the same. State never discloses source information to the Hill. Bowsher believes either an outside or inside person could be CIA IG; the key is independence and attitude. Funk said a CIA statutory IG should be someone with an intelligence background; Brown agreed. Bowsher said this was helpful, but not essential.

3. Senator Specter asked about DoD's experience in auditing DIA; DoD has had no problems. The people designated for the job observe strict security rules and observe usual IG procedures. There are no problems regarding NSA. The State IG has had no problems with IG functions vis-a-vis highly classified intelligence information. DoD has never prohibited audits. Brown admitted that a statutory IG is troublesome for the Agency,

because IGs report to all Members, not just to Members of the intelligence committees. S. 1818 does not preclude this from happening and S. Res. 400 is not adequate protection. If there is a statutory IG established at CIA, the language should be modified to remedy this problem. The DoD program has been successful. A statutory IG forces responsibility in the IG, the head of the agency and Congress. Bowsher said that the DCI is putting in a good program, but questions whether it will be there five or 10 years from now.

4. Senator Boren asked whether the IG staff is subject to the polygraph. None is at State, but the personnel have appropriate clearances. DoD is considering establishing the polygraph for intelligence people, to be renewed every five years; there is no polygraph now.

5. Specter is concerned about a non-independent IG returning to the Agency ranks. He asked about the cost-effectiveness of the group. Bowsher said that the IGs more than pay for themselves. At CIA, much of their effort would be spent on the Agency's more costly programs. A few IG offices are understaffed, such as NASA.

6. Senator Boren asked the DCI to elaborate on the difference between access to NSA and DIA material and access to covert action information. The DCI explained how the IG law emphasizes fraud, waste and abuse for DoD and that the Secretary of Defense has control of the IG. The Assistant to the Secretary has control of sensitive information. However, the IG is not involved in the valuation of sensitive and management issues. With State, the DCI only knows that INR information supplied by the Agency is limited. State is not an intelligence-gathering Agency like CIA. There is a difference in the relationships with foreign liaison and nationals, both in magnitude and in type.

7. Illegal intelligence activity is reported to the IOB and to the oversight committees. The DCI never thought he had discretion with respect to what was reported; he said he is held accountable to report the information. He would be happy to work out some timeframe for reporting; he has been "struggling" with this matter. Senator Boren said that it is important to have certain set procedures for sending information to the two intelligence committees.

8. Senator Specter asked if there were any real difference between CIA and DIA. His memories are "fresh" regarding a DCI who exercised discretion not to forward information to the committees; his concerns go beyond the personality of the DCI. Judge Webster stated that the DCI has certain specific statutory obligations to Congress. The designation of a statutory IG does not give any more real assurance regarding detecting wrongdoing

and reporting obligations than is now one's right to expect from CIA. Senator Specter said that the "right to expect" is only as good as the DCI. Further, the political appointment process brought in Judge Webster. The DCI responded that this process is needed for agency heads, but in setting up the CIA, Congress decided against having more than two presidential appointees.


9. Senator Specter said that the Iran-contra Committees have gone into this issue in great depth and recommended a CIA statutory IG confirmed by the Senate. The DCI said that Iran-contra was an unusual situation. He is not aware that the statutory IGs produced any report similar to that produced by the CIA IG regarding propriety. Senator Specter asked if the DCI did not conclude that the Agency's IG report on Iran-contra was inadequate. With regard to the sale of arms to Iran, it was quite good. There were pitfalls regarding the investigation of the contra issue. The practices have been corrected and would not be alleviated by appointing a statutory IG.

10. Senator Specter said that the Iran-contra committees go to the issue of independence. With a DCI like Judge Webster, there is no problem. The DCI said that it is important that the IG has independence; he is obligated to make reports to the DCI, who is obligated to report illegalities to Congress. Senator Specter noted that the bill allows the DCI to stop an investigation, but he must report such action to the oversight committees. The DCI says the bill invites more intrusion into the workings of the Agency. The question is whether the IG works for him or for Congress. Senator Specter asked whether deleting the "and otherwise" language with respect to keeping Congress informed in accordance with subsection 8 would help. The DCI said that it would be an improvement, but would still pose a problem. The DCI wants the IG to make him aware of the problem and allow the DCI to report to Congress. Senator Specter said this is a problem if there is a disagreement between the DCI and the IG. The DCI said he and the senator have a different view of statutory IGs in sensitive places. The senator is prepared to modify bill so the independent IG does not go to the committees before going to the DCI.

11. It is important to the DCI to select his own IG. He needs his own IG in a nonpolitical, nonpolicymaking agency. Senator Specter said he would have that choice. The presidential appointee process is the best selection process had.

12. The DCI believes he needs an IG badly; he depends on him enormously. IGs at most other departments deal almost entirely with the expenditure of funds. At CIA, he deals day-to-day with sensitive information. The DCI has serious doubts about the quality of cooperation an outside IG would get.

13. Senator Boren said they would think about staying within the current system, but putting some statutory language in place to perhaps codify this system. His view is between Senator Specter's and having no statutory change at all. He said he has due regard for the sensitivity of dealing with other countries and welcomes the DCI's additional thoughts. He indicated markup would take place as soon as possible.

  
Legislation Division  
Office of Congressional Affairs

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Attachments

OCA/LEG,  (23 March 1988)

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For Release  
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Tuesday  
March 1, 1988

Establishment of an  
Inspector General at the Central  
Intelligence Agency

Statement of  
Charles A. Bowsher  
Comptroller General

Before the  
Select Committee on Intelligence  
United States Senate



Mr. Chairman and Members of the Committee:

We appreciate the opportunity to appear here today to discuss section 4 of Senate bill 1818 which would establish an Office of Inspector General at the Central Intelligence Agency (CIA). Specifically, we would like to (1) comment on the effectiveness of the Inspector General Act of 1978, as amended, in uncovering abuses and improving agency operations, (2) discuss the ability of statutory inspectors general (IGs) to protect classified information, and (3) provide our views on the value of a statutory inspector general for the CIA.

EFFECTIVENESS OF THE INSPECTOR GENERAL ACT OF 1978

We believe the Inspector General Act of 1978 has played a significant role in strengthening federal internal audit and investigative activities and improving the operations of the federal government. Under the IG act of 1978 and other legislation, statutory inspectors general have been established in 19 departments and agencies. The creation of these statutory IGs has been a bipartisan effort that has improved the effectiveness of the federal government.

The establishment of statutory IGs was designed to combat fraud, waste, and abuse and to correct numerous organizational and procedural deficiencies in the federal audit and

investigative community. These deficiencies included

- the lack of effective central leadership among multiple audit and investigative units operating within an agency,
- the lack of independence due to auditors and investigators reporting to officials who were responsible for the functions under review and investigators being restricted from looking into certain areas of suspected irregularities,
- audit recommendations frequently being ignored by agency officials,
- audit and investigative units being severely limited due to inadequate resources, and
- the lack of procedures to ensure that the agency head and the Congress were informed of serious problems discovered in the agency.

GAO strongly supported the Inspector General Act of 1978 and other legislation that created the statutory inspectors general. We supported such legislation because it would correct many of the deficiencies in the audit and investigative communities and would help ensure that high-level attention is given to promoting

accountability, adequate internal controls, economy, efficiency, and effectiveness in federal programs and operations. We also believed such legislation would help ensure that the Congress and agency heads would receive independent assessments of federal programs and operations for which they are accountable or have oversight responsibility.

GAO reviews of IG activities over the past several years indicate that the establishment of statutory IGs has been a key factor in strengthening federal internal audit and investigative activities and improving operations within the federal government. The statutory IGs and the President's Council on Integrity and Efficiency, whose membership includes the statutory IGs, have reported to the Congress that they have had substantial success in helping bring about improvements in the federal government.

The IGs have been responsible for uncovering fraud, waste, and abuse in their agencies, and their efforts have resulted in savings involving billions of dollars. The President's Council on Integrity and Efficiency has calculated aggregate statistics for data reported by the IGs for fiscal years 1982 through 1986. These statistics show that during that period:

- successful prosecutions of wrongdoers increased from 2,099 cases to 4,094;



- investigative recoveries rose from \$45.3 million to \$191.8 million;
- sanctions against contractors or offices doing business with the federal government increased from 502 sanctions to 2,047; and
- annual savings resulting from recoveries and restitutions arising from IG findings and avoidance of incurring unnecessary expenditures rose from \$11.5 billion to \$20 billion.

INSPECTOR GENERAL ABILITY TO  
PROTECT CLASSIFIED INFORMATION

The questions of whether IGs should be involved in areas dealing with classified or other types of sensitive information and whether they have the abilities to do so are not new. These issues were addressed when the Congress passed legislation establishing IGs at the Departments of Defense (DOD) and State and when the Senate passed S. 908, the Inspector General Act Amendments of 1987, which, among other things, would establish IGs at the Department of the Treasury and at the Internal Revenue Service.

Our work with the IGs has not disclosed, nor are we aware of, any instances where there has been a weakening in security or confidentiality in agencies that have statutory IGs. This includes those agencies, such as the Departments of Defense and State, where security is a paramount consideration. We are not aware of any reason why a CIA IG could not safeguard information regarding national security matters.

The Senate Committee on Governmental Affairs also studied this issue when it was considering the Inspector General Act Amendments of 1987. In its August 7, 1987, report on this bill, the Committee determined that "there is no reason to believe an IG is less trustworthy than other agency officials in handling sensitive information."

Senate bill 1818 provides the Director of the CIA a mechanism to prohibit its IG from looking into matters when such reviews would pose a threat to national security. Specifically, section 4(a)(3) allows the Director of the CIA to prohibit the IG from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena dealing with ongoing operations if the Director determines that such a prohibition is necessary to protect national security. However, if the Director exercises this power, he must submit the reasons for doing so within 7 days to this Committee and to the Permanent Select Committee on Intelligence of the House of Representatives. This

provision is similar to a special provision in section 8 of the IG act which allows the Secretary of Defense to prohibit certain IG audits and investigations to preserve national security interests. The act also requires the DOD IG to report any such action to the appropriate congressional committees, and the Secretary must submit a statement of the reason to the same committees. The DOD IG advised us that this provision has never been used.

Similar to the DOD provision in section 8 of the IG act, S. 908, the Inspectors General Amendments of 1987, authorizes the Secretary of the Treasury and the Commissioner of Internal Revenue to prohibit IG audits and investigations which require access to certain sensitive information, when necessary to preserve the confidentiality of such information. Again, as with the DOD provision, the prohibition of an IG audit or investigation would be reported to appropriate congressional committees. This bill passed the Senate on February 2, 1988, and is being referred to the House for action.

#### VALUE OF A STATUTORY INSPECTOR GENERAL AT THE CIA

We have supported the creation of all the existing IGs and have testified that IGs should be created in the Departments of Justice and Treasury. We have not reviewed the nonstatutory IG function at the CIA. However, we believe that a statutory IG

would be as appropriate and effective for the CIA as it has been for the other agencies with existing statutory IGs.

#### TECHNICAL CONSIDERATIONS

I would like to address some technical considerations regarding this issue. GAO has consistently supported creating new IGs by amending the IG act of 1978, because the act contains uniform requirements regarding such things as the qualifications and responsibilities of IGs and the auditing standards they are to follow. We believe that using the 1978 act as an umbrella when new IGs are created, and modifying it as necessary for special considerations, as was done in creating the DOD IG, ensures consistency in the organization and operation of the various IG offices.

If the Committee does not wish to include a CIA IG under the 1978 act, we suggest that the Committee consider the written comments on section 4 that we provided on December 7, 1987. These comments included a comparison of the provisions of section 4 with those of the Inspector General Act of 1978. The comparison identified a number of differences for the Committee's consideration in drafting the final legislation. We understand the Committee is considering making some changes to the bill based on our comments. These include specifying the qualifications of the CIA IG, giving the IG access to records,

and ensuring that the IG has direct access to the head of the agency. We believe that these changes will help strengthen section 4 of this bill. Our staff is available to discuss these technical matters.

This concludes my statement. We would be pleased to respond to any questions you may have.

Testimony by  
Sherman M. Funk  
Inspector General, Department of State  
before the  
U.S. Senate Select Committee on Intelligence  
March 1, 1988

Mr. Chairman, Members of the Committee:

It is a great pleasure for me to testify before your Committee on S.1818, the National Security Reform Act of 1987.

As the Committee has requested, my testimony will focus on how the statutory IG is working at the State Department and our ability to inspect intelligence programs and activities. I hope that this experience will assist the Committee in its deliberations on S.1818.

This is my first opportunity to appear before this Committee since the creation of the new Office of Inspector General. As you know, my office was created pursuant to P.L. 99-399 of August 17, 1986, and was formally established on August 27, 1986. I was sworn in as the first statutory Inspector General on August 14, 1987. Previously, I had served for six years as IG of the Department of Commerce.

As Inspector General, I operate with complete independence, reporting only to the Secretary and Deputy Secretary. I have total access to Department personnel and records. In order to ensure that my office is fully informed of all management issues, I sit as an ex officio member of the Department's Management Council and the Internal Controls Steering Committee which oversees the Department's compliance with the Federal Managers' Financial Integrity Act.

The Arms Control and Disarmament Amendments Act of 1987, signed by the President on December 24, 1987 gave me a second hat as the Inspector General of the Arms Control and Disarmament Agency. The Act also directed me to conduct a survey of physical, personnel, document and communication security programs and practices in ACDA not later than 90 days after enactment. We currently have an audit team working on this project, and I will report the results to Congress.

The new Office of Inspector General has a heavy burden of work, covering 334 foreign posts and all domestic offices of the Department of State and ACDA. One of my main jobs, in the six months since I assumed my new responsibilities, has been to recruit a highly-qualified staff to carry out our broad mandate. The office has a total of 236 authorized positions, of which 111 are either on board or selected and awaiting security clearances. Although far short of our authorized

ceiling, we are carrying out a vigorous and far-ranging program of inspections, audits and investigations. Earlier, the inspection function in State was carried out by the Office of Policy and Program Review, pursuant to Section 209 of the Foreign Service Act of 1980. To avoid costly and unnecessary duplication, the Secretary merged that office into mine last summer.

In this fiscal year, we have already inspected the large U.S. missions in the Philippines, Japan, West Germany, Spain, Portugal and El Salvador. We are currently inspecting 18 posts in Western and Southern Africa, the Caribbean, and Switzerland as well as the Bureau of Intelligence and Research and the Office of Foreign Missions. We are also carrying out a special review of the crisis management capabilities of the Department. Our audit office is actively reviewing a range of functional problems in the areas of security, overseas construction, financial management and consular fraud. Our Office of Investigations had a case load of 182 cases as of January 31, 1988. I have brought copies of our semiannual reports for the periods October 1, 1986 to March 31, 1987 and April 1, 1987 to September 30, 1987. These reports provide detailed information on the activities of the office and on the most important findings and recommendations.

Mr. Chairman, you have expressed an interest in how my office reviews intelligence programs and activities. In the course of each overseas inspection, the senior inspector, who is usually a former Ambassador, is tasked with personally assessing relations between the Chief of Mission and intelligence components of the Embassy. On his return, the senior inspector reports to me on these relationships and on any problems which he has observed. In addition, he reviews intelligence activities to determine, within the constraints of time and access, whether there are any apparent violations of law involved in intelligence programs in the country being inspected. On a quarterly basis, I report to the Chairman of the President's Intelligence Oversight Review Board on these 2nd other relevant findings which arise from our work. In addition, once each year a senior inspector reviews in depth all covert programs known to the Department. This review is carried out pursuant to Executive Order 12334 of December 4, 1981, which charges Inspectors General and General Counsels of the Intelligence Community to report to the President's Intelligence Oversight Board concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential directive. Our review involves a detailed reading of INR's files and interviews with senior officers in INR, the Geographic Bureaus and the Office of the Legal Advisor. Each and every covert program for which there is a presidential finding is reviewed.

Beyond these regular reports, my office inspects the Bureau of Intelligence and Research as part of our regular inspections of Department bureaus. Coincidentally, an inspection of INR is now under way, personally led by Deputy Inspector General Anthony Quainton. Ambassador Quainton is with me today to answer any specific questions you may have about that inspection.

I should, however, like to comment in general terms on the INR inspection. A total of six Foreign Service and Civil Service inspectors are working with Ambassador Quainton. The inspection began in January and, by the time we complete the job on April first, they will have interviewed all of INR's 370 employees. They are reviewing INR's analytical product, assessing the management of INR's human and financial resources and examining INR's effectiveness as a coordinator of intelligence programs overseas. Having obtained all the appropriate clearances, the inspectors are looking at INR's work to judge the extent to which it is producing timely, policy-relevant analysis and is carrying out its coordination responsibilities to ensure that foreign intelligence activities are consistent with law and U.S. Foreign Policy objectives. The INR inspection team will also be looking at the question of the security of classified information in INR and will be making appropriate recommendations to management in this regard. I would be happy to provide to the Committee a copy of the final classified inspection report.

I should note that as we gather information through our Offices of Audits, Inspections, and Investigations, we also preserve the security of the information we gather. This comes easy to us, because OIG staffs are accustomed to working daily with very sensitive (but usually unclassified) material. Our people are professional clams. At State, where we handle a huge volume of classified material, we release our classified reports only to those with appropriate clearances -- including Capitol Hill. We are particularly careful to maintain controls in all matters relating to special category and other sensitive intelligence.

With regard to the broader question of security, I have directed the Security and Intelligence Division of the Office of Audits to give particular attention to questions of documentary and physical security. It will be looking especially at the programs of the Bureau of Diplomatic Security, beginning with the security and counterintelligence training of its special agents. As in the case of ACDA, we shall be examining all aspects of the Department's security program.

An area of great concern to me and to the Secretary has been security at our Embassy in Moscow. Last October, accompanied by the Assistant Inspectors General for Audit and



for Investigation and a senior inspector, I reviewed the very complex security and logistical problems faced by our Mission in the Soviet Union in Finland. On our return, I discussed our findings with the Secretary, Deputy Secretary, Department bureau heads, and with senior officials of the intelligence agencies. My formal report to the Secretary makes specific recommendations for enhancing security and counterintelligence. These recommendations are currently under review at the highest levels of the Department.

In short, Mr. Chairman, security is a very high priority for my office. As we review the management and implementation of U.S. foreign policy, we will be acutely aware of security and counter intelligence and of the necessity that our Government's covert programs abroad be carried on in full compliance with law and applicable presidential findings. This, I know, is a concern of your Committee as evidenced by S.1818 which we are discussing today.

I would be happy to answer any questions you may have.

**HOLD FOR RELEASE  
UNTIL DELIVERY  
EXPECTED 2 : 00 P. M.  
MARCH 1. 1988**

**STATEMENT BY  
HONORABLE JUNE GIBBS BROWN  
INSPECTOR GENERAL, DEPARTMENT OF DEFENSE  
BEFORE THE  
SELECT COMMITTEE ON INTELLIGENCE  
U. S. SENATE  
MARCH 1, 1988**

Mr. Chairman and members of the Committee, it is a pleasure to be here today to testify regarding Inspector General, Department of Defense (IG, DoD) coverage of classified programs.

In your letter of invitation, you asked that I discuss our operational abilities and constraints in addressing classified programs.

### **INSPECTOR GENERAL ACT OF 1978**

When the Inspector General Act of 1978 was amended in 1982 to establish an Office of Inspector General (OIG) for the Defense Department, special consideration was given to classified programs and operations. Unique provisions were enacted with respect to DoD which were intended to allow only the Secretary of Defense and no one else to control IG access to the most sensitive classified programs. The Secretary and the IG must provide the Congress with information concerning any instance where the Secretary acted to restrict IG access to classified information. A copy of this portion of the IG Act is appended to my statement.

We have found these provisions serve our needs. They provide good mechanisms for our access determinations to be made at the highest levels of the Department. The requirement for immediate Congressional notification when the Secretary denies access to us precludes unnecessary limitations by the Department. To date, we have never had to advise the Congress that we were denied access. There have been instances where there have been delays and problems, but these have always been resolved without compromising our independence and access and the Department's legitimate security needs.

### **INSPECTOR GENERAL REVIEW OF CLASSIFIED PROGRAMS**

My office interfaces with classified programs in four ways. We audit the programs; inspect organizations and functions involved in classified

programs; perform oversight reviews of the Defense Contract Audit Agency (DCAA) and the Military Service internal audit agencies, all of which audit classified contracts; and conduct criminal investigations relating to intelligence or special access programs.

### Audits

For years, the IG, DoD has been involved in auditing classified programs of the Department of Defense. The audit techniques used for audits of these programs are the same as those used for other audits. Such audits have included programs of the Military Departments and the Defense agencies. Some of the agencies that are given continuous audit coverage include the Defense Intelligence Agency, the Defense Nuclear Agency, and the National Security Agency. In the Military Departments, we audit such areas as tactical intelligence, intelligence training and combat readiness. We also have audited defense reconnaissance programs which interface with national programs of the Director of Central Intelligence.

Our Audit Policy and Oversight Office reviews the DCAA Field Detachment which was established to audit certain classified contracts. The work and responsibilities of the Detachment are the same as that of the rest of DCAA except that special security measures are used to protect the classified data. Originally, the Detachment was established to review certain compartmented contracts; however, during the past several years special access programs have been established for major weapon systems, and audit cognizance was given to the Detachment because of the security requirements. Our oversight reviews of DCAA and the Field Detachment are the same. We review for compliance with prescribed auditing standards, policies and procedures.

The internal audit agencies of the Military Departments also conduct audits of special access and classified programs. DoD Directive 7600.2 provides that these auditors shall have full and unrestricted access to all records, facilities and personnel for the accomplishment of the announced objectives of their audits. Only the Secretary of the Military

Department may deny access to his or her auditors and only for the reasons under which the Secretary of Defense may deny access to the Inspector General, DoD. This Directive further provides that the Secretary of the Military Department will notify the Inspector General, DoD, within 15 working days of any denial actions.

Further, in March 1986, the Deputy Inspector General, DoD, entered into a memorandum of understanding with the Director, Joint Staff, Office of the Joint Chiefs of Staff, on access by DoD auditors to sensitive military plans and supporting documents. This MOU also applies to the internal auditors of the Military Departments.

### Inspections

Our inspectors inspect organizations and functions that may be involved with classified and special access programs. Inspections are closely coordinated with program management personnel, who control program access, as well as with security personnel. Recent inspections involved classified activities within the Defense Nuclear Agency, the Defense Communications Agency and the Defense Mapping Agency.

### Investigations

The investigative arm of my office, the Defense Criminal Investigative Service, has conducted investigations regarding criminal activities, such as cost mischarging, false test certifications and conflict of interest, in classified programs, as have the investigative organizations of the Military Departments. For example, the Army Criminal Investigation Command successfully completed a corruption related investigation in the classified activities of an Army special operations program which resulted in convictions before courts martial. The Naval Investigative Service has also achieved results in their investigation into activities of a special operations group, obtaining convictions in U.S. District Court and courts martial for procurement fraud and corruption offenses. Access has not been a serious problem for our investigators.

Having established positions in the functional areas of the OIG to handle the unique aspects of auditing, inspecting and investigating matters related to classified programs, we have been able to perform our responsibilities in a manner which I believe is satisfactory both to us and to program officials. The OIG personnel working in this area bring to their duties both the requisite functional expertise and an appreciation of how their work must be conducted, documented and safeguarded in the classified arena.

The constraints imposed by the IG Act are reasonable. The Department has not sought to unnecessarily invoke the Act's denial provisions. Indeed, it appears to me that the Department has taken a view that only the most time-sensitive information would need to be limited as, for example, if by chance we had sought information relating to the Grenada invasion on the eve of that event.

In summary, I believe we are as able to address issues in classified areas as we are in non-classified segments of the Department's operations. The IG Act serves our needs for access and the constraints it imposes have been reasonably interpreted by the Department.

You also requested that I comment on the impact of a statutory IG in maintaining the security of classified information and on the Department's ability to carry out its missions effectively.

#### INSPECTOR GENERAL IMPACT ON MISSION PERFORMANCE

Of course, people who do not want independent review of their classified programs are prone to instinctively raise the spectre of "security" as a reason to block OIG oversight or investigation. However, in reality, our work in this area to date has presented no additional security problems for the Department.

We are a part of the DoD, and as such, we are aware of the necessity to protect classified information. We have auditors, investigators, and inspectors with the appropriate security clearances. To preclude

problems, we have a cadre of specially trained and indoctrinated auditors for the most sensitive programs. We also created a special unit within the Defense Criminal Investigative Service to monitor and assist in our investigations of classified programs. To further improve our ability to pursue criminal violations in special programs, we have developed procedures with the Department of Justice wherein it has agreed to designate the Defense Procurement Fraud Unit as the focal point for all criminal investigative referrals involving classified programs. Criminal Investigations Policy Memorandum Number 9, entitled "Criminal Referrals Involving Fraud and General Crimes in Classified or Sensitive Programs," signed by the Deputy Inspector General on July 29, 1986, provides guidance on these referrals to the Military Departments. The memorandum specifies that such referrals shall be made directly to those individuals in the Fraud Unit who have the appropriate security clearances and eligibility for access. The referrals shall also be made without prior coordination or referral to local United States Attorneys. As you can see, we have made every effort to ensure that the security of these programs is not compromised.

I believe that our work involving classified programs has improved the Department's mission performance. We bring to the classified arena the same standards of integrity, efficiency and accountability that we apply elsewhere in the Department. Our investigations, audits and inspections provide senior officials with information they can use to improve the execution of these programs and our followup programs ensure that due consideration is given to our findings and recommendations.

Sometimes we have felt that it was unduly time consuming to obtain access to classified program information, but we have always obtained access to the information we required to complete our audits, investigations and inspections. The IG Act provisions have provided us with a good balance: we can obtain access to the information we need; the Secretary can prevent us from this access when he determines the national security is concerned, and the Congress has oversight to ensure

that the national security is not used as an excuse to cover up mismanagement or illegal activity.

Finally, you asked for a description of the relationship between my office and the rest of the Department.

#### INSPECTOR GENERAL RELATIONSHIP WITH DOD

I have direct access to the Secretary and Deputy Secretary of Defense as well as to all officials subordinate to them, both at the Defense level and in the Military Departments and Defense agencies. The budget for the OIG is included as part of the appropriation for Operations and Maintenance, Defense Agencies.

As I stated earlier, I believe that the OIG is part of the Department and that I work for the Secretary. But my obligation to him, and to the President, is to independently evaluate the programs and operations of the Department, to promote economy and efficiency, and to prevent and detect fraud, waste and mismanagement. Both Secretary Weinberger and Secretary Carlucci recognize the unique role that the IG performs and have provided the operational and personal support needed to make my office truly effective within the Department of Defense.

Mr. Chairman, that concludes my statement. I will be happy to answer any questions you might have.



§ 7

## TITLE 5—APPENDIX I

closed with the knowledge that it was false or with willful disregard for its truth or falsity.

*Legislative History. For legislative history, see 1978 U.S. Code Cong. and Adm. News, p. 2878, history and purpose of Pub. L. 95-432.*

§ 8. Additional provisions with respect to the Inspector General of the Department of Defense

(a) No member of the Armed Forces, active or reserve, shall be appointed Inspector General of the Department of Defense.

(b) (1) Notwithstanding the last two sentences of section 3(a), the Inspector General shall be under the authority, direction, and control of the Secretary of Defense with respect to audits or investigations, or the issuance of subpoenas, which require access to information concerning—

- (A) sensitive operational plans;
- (B) intelligence matters;
- (C) counterintelligence matters;
- (D) ongoing criminal investigations by other administrative units of the Department of Defense related to national security; or
- (E) other matters the disclosure of which would constitute a serious threat to national security.

(2) With respect to the information described in paragraph (1) the Secretary of Defense may prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena, after the Inspector General has decided to initiate, carry out or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to preserve the national security interests of the United States.

(3) If the Secretary of Defense exercises any power under paragraph (1) or (2), the Inspector General shall submit a statement concerning such exercise within thirty days to the Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives and to other appropriate committees or subcommittees of the Congress.

(4) The Secretary shall, within thirty days after submission of a statement under paragraph (3), transmit a statement of the reasons for the exercise of power under paragraph (1) or (2) to the Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives and to other appropriate committees or subcommittees.

(c) In addition to the other duties and responsibilities specified in this Act, the Inspector General of the Department of Defense shall—

(1) be the principal adviser to the Secretary of Defense for matters relating to the prevention and detection of fraud, waste, and abuse in the programs and operations of the Department; ..

(2) initiate, conduct, and supervise such audits and investigations in the Department of Defense (including the military departments) as the Inspector General considers appropriate;

(3) provide policy direction for audits and investigations relating to fraud, waste, and abuse and program effectiveness;

(4) investigate fraud, waste, and abuse uncovered as a result of other contract and internal audits, as the Inspector General considers appropriate;

(5) develop policy, monitor and evaluate program performance, and provide guidance with respect to all Department activities relating to criminal investigation programs;

(6) monitor and evaluate the adherence of Department auditors to internal audit, contract audit, and internal review principles, policies, and procedures;

(7) develop policy, evaluate program performance, and monitor actions taken by all components of the Department in response to

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contract audits, internal audits, internal review reports, and audits conducted by the Comptroller General of the United States;

(8) request assistance as needed from other audit, inspection, and investigative units of the Department of Defense (including military departments); and

(9) give particular regard to the activities of the internal audit, inspection, and investigative units of the military departments with a view toward avoiding duplication and insuring effective coordination and cooperation.

(d) Notwithstanding section 4(d), the Inspector General of the Department of Defense shall expeditiously report suspected or alleged violations of chapter 47 of title 18, United States Code (Uniform Code of Military Justice), to the Secretary of the military department concerned or the Secretary of Defense.

(e) For the purposes of section 7, a member of the Armed Forces shall be deemed to be an employee of the Department of Defense.

(f)(1) Each semiannual report prepared by the Inspector General of the Department of Defense under section 5(a) shall include information concerning the numbers and types of contract audits conducted by the Department during the reporting period. Each such report shall be transmitted by the Secretary of Defense to the Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives and to other appropriate committees or subcommittees of the Congress.

(2) Any report required to be transmitted by the Secretary of Defense to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified in such section, to the Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives.

(g) The provisions of section 1385 of title 18, United States Code, shall not apply to audits and investigations conducted by, under the direction of, or at the request of the Inspector General of the Department of Defense to carry out the purposes of this Act.

Legislative History. For legislative history U.S. Code Cong. and Adm. News, p. History and purpose of Pub. L. 95-432, see 3574.

#### § 8A. Special provisions relating to the Agency for International Development

(a) In addition to the other duties and responsibilities specified in this Act, the Inspector General of the Agency for International Development—

(1) shall supervise, direct, and control all security activities relating to the programs and operations of that Agency, subject to the supervision of the Administrator of that Agency; and

(2) to the extent requested by the Director of the United States International Development Cooperation Agency (after consultation with the Administrator of the Agency for International Development), shall supervise, direct, and control all audit, investigative, and security activities relating to programs and operations within the United States International Development Cooperation Agency.

(b) In addition to the Assistant Inspector Generals provided for in section 3(d) of this Act, the Inspector General of the Agency for International Development shall, in accordance with applicable laws and regulations governing the civil service, appoint an Assistant Inspector General for Security who shall have the responsibility for supervising the performance of security activities relating to programs and operations of the Agency for International Development.

(c) The semiannual reports required to be submitted to the Administrator of the Agency for International Development pursuant to section